

## Affordability Criteria as Required by the Water Resources Reform and Development Act (WRRDA) for the Kansas Water Pollution Control Revolving Fund

September 18, 2015

### Background

The Water Resources Reform and Development Act (WRRDA) amendments to the Clean Water Act require the Clean Water State Revolving Fund (CWSRF) programs to develop Affordability Criteria by September 30, 2015, including presenting the documents through a public hearing review for comments. This document provides the policies and procedures to implement these requirements for the Kansas Water Pollution Control Revolving Fund (KWPCRF). These Affordability Criteria will also:

- Present prior and ongoing efforts to coordinate funding of high cost wastewater improvement projects with other state and federal funding agencies.
- Will address high cost projects as measured by income and user charge impacts.
- Present the future plan to utilize the available federal funds Additional Subsidy to help finance these high cost projects. In Kansas, the KWPCRF provides Principal Forgiveness funding of a portion of loan amount to utilize the federal funds Additional Subsidy funding.

The amount of Additional Subsidy available to the KWPCRF varies widely year-to-year, and although WRRDA now provides a formula for the future, the amount is sometimes established by Congress with the annual appropriation.

The WRRDA amendments to the Clean Water Act require the states consider income, unemployment data, population trends, and other data determined to be relevant by individual state's loan applicants. The WRRDA amendments also require this Additional Subsidy may only be provided for affordability reasons. As a secondary option, the subsidy can be provided to implement a process, material or technique that addresses water or energy efficiency goals; mitigation of stormwater runoff; or to fund sustainable project planning, design, and construction. In Kansas, the agencies that provide funding for sewerage project construction (and also water supply project construction) have worked closely in the past through the Kansas Inter Agency Committee (KIAC) process to coordinate financing applications and funding. (see <http://www.kansascommerce.com/DocumentCenter/View/5491>). Monthly KIAC meetings are held to meet with applicants over a six month period to consider applications. The KWPCRF will continue to coordinate with the Community Development Block Grant (CDBG) program (HUD money provided through Kansas Department of Commerce - see [www.kansascommerce.com/cdbg](http://www.kansascommerce.com/cdbg) ) and the Rural

Development - USDA loan and grant program (see [www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program](http://www.rd.usda.gov/programs-services/water-waste-disposal-loan-grant-program)). Like the CWSRF Additional Subsidy appropriations from Congress, these sources of grant funding are not guaranteed.

### **Implementation Procedures**

The following steps and procedures will be implemented to provide KWPCRF loan program Principal Forgiveness funding based on Affordability Criteria to a specific project:

1. The Additional Subsidy (Principal Forgiveness) will continue to first be used to fully fund all Kansas Green Project Reserve (GPR) design projects selected to receive Principal Forgiveness funding in prior fiscal years.
2. Only wastewater treatment facilities (wwtfs) that are non-compliant or are associated with collection systems experiencing sanitary sewer overflows (SSOs) will be considered for Principal Forgiveness funding of the KWPCRF loan. There must be a Schedule of Compliance in a KWPC or NPDES permit, or an Order issued by KDHE or EPA to identify the non-compliance.
3. The Additional Subsidy (Principal Forgiveness funding) will only be provided if a community/project has an abnormally high user charge that is greater than **1.5%** of Median Household Income (MHI) (see [http://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml)). The user charge calculations must include existing debt service; new debt service as a result of the proposed project; existing operations, maintenance, and replacement (OM&R) annual expenses; and additional OM&R as a result of the new project. The “secondary indicators” as presented in the *Interim Economic Guidance for Water Quality Standards Workbook, EPA-823-B-95-002 March 1995* can be presented by the applicant and/or considered by KDHE to establish an alternate percentage of MHI to define an abnormally high user charge for a specific community.
4. Before any project with abnormally high user charges will be considered for Principal Forgiveness funding of a portion of the KWPCRF loan the applicant must apply for CDBG grant funding. If eligible under the CDBG program, the applicant must receive the maximum amount of grant funding for the required project (currently estimated to be \$500,000 per year, with the CDBG baseline user charge of \$26.25 per month).

If the community/project is not eligible for CDBG grant funding, documentation must be provided to KDHE in the form of correspondence from the CDBG program.

5. Before any project with abnormally high user charges will be considered for Principal Forgiveness funding of a portion of the KWPCRF loan the applicant must apply for loan and grant funding from Rural Development (RD). If eligible under the RD program, the applicant must receive the maximum amount of loan funding at the minimum interest rate and also receive the maximum amount of grant funding for the required project. While interest rates change over time for this program, the current rate is 2.125% “poverty rate” loan for 40 years, with a maximum 75% grant. RD will target the monthly user charge amount, depending on the community’s/project’s Median Household Income, to above \$40 for 40 years. If the community/project is not eligible for RD loan or grant funding, documentation must be provided to KDHE in the form of correspondence from the RD program.
6. The community/project must pursue KWPCRF low interest loan funding for the amount of the project above the CDBG grant amount. The CDBG grant process allows an income survey of the community to better establish MHI. The CDBG survey information and conclusions may be included for this KWPCRF Affordability Criteria analyses as well. The KWPCRF loan would then provide “interim financing” for the RD loan and grant at the interest rate established by K.A.R. 28-16-113. This provides the most efficient use of funds from all three sources of grant and loan funding.

Any project cost amount remaining to be funded above the CDBG grant, the RD maximum grant, and the RD 40 year loan would be provided by the KWPCRF loan. The KWPCRF loan would be an amount as needed to reduce the User Charges to **1.5%** of MHI (or other accepted percentage considering “secondary indicators”) including 100% Principal Forgiveness funding of any KWPCRF loan amount above the KWPCRF loan amount not supported by the target user charge, subject to the availability of federal Additional Subsidy funds.

If the community/project is not eligible for CDBG funding, and/or similarly not eligible for RD loan or grant funding, then the KWPCRF loan would provide principal forgiveness funding to the KWPCRF loan in a similar fashion to keep the actual user charges at the target user charge.

7. Unemployment rates will be considered. If the local unemployment rate for the applicant for the prior 12 month period (see <https://klic.dol.ks.gov/gsipub/index.asp?docid=402> ) is **1%** or more greater than the national average (see <http://data.bls.gov/timeseries/LNS14000000> ), additional priority points will be provided in the Project Priority System of the Kansas Water Pollution Control Revolving Loan Fund.
8. Population trends will be considered. If the population trend is declining at a rate above 2% per year for the prior 5 year period (using either city or county data as appropriate)

(see [http://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml)) additional priority points will be provided in the Project Priority System of the Kansas Water Pollution Control Revolving Loan Fund.

9. Principal Forgiveness funds are limited by federal law and can be provided only as available from the federal government in the annual EPA CW SRF appropriations.

This approach effectively allows the KWPCRF to provide the limited federal Additional Subsidy funding to highest priority environmental needs for SSO resolution, treatment plant non-compliance, nutrient reduction, and Total Maximum Daily Load (TMDL) issues.

If this procedure results in the additional subsidy not being fully utilized for abnormally high user charges projects, after two years of availability the Additional Subsidy funds could be used for other projects with Green Project Reserve (GPR) qualifying designs. This is the second option available from WRRDA to use the Additional Subsidy set aside federal funding from EPA. That is, rather than use the federal Additional Subsidy funds in support of high cost projects, the Additional Subsidy can be used to implement GPR designs which reduce energy usage, provide effluent water reuse, and embrace some other unique goals. Kansas had used this approach in the past, and is using currently available federal Additional Subsidy amounts from the FFY 2015 Capitalization Grant to provide Additional Subsidy funding to these previously selected GPR projects. Under the current federal CW SRF rules the Additional Subsidy annual federal appropriation amounts are “allocated” and so will remain available until utilized.

This Affordability Criteria document may be revised and/or updated in the future at any time by preparing a new Affordability Criteria document and presenting the new documents through a public hearing review for comments.